

REMARKS

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

REQUEST FOR EXAMINER INTERVIEW AFTER FINAL REJECTION

An Examiner interview after final rejection is respectfully requested. As stated in MPEP '713.01, "Examiners may grant one interview after final rejection. See MPEP '713.09." MPEP '713.09, in turn, states, "Normally, one interview after final rejection is permitted." A substantial pendency period has already accumulated and substantial written prosecution has already been conducted in the application. At this point in time, an Examiner interview appears to be the most logical and preferred method of further prosecution in the application, i.e., an Examiner interview will accelerate prosecution by providing immediate discussion and feedback superior to the delayed discussion and feedback of normal intermittent written prosecution. Accordingly, Applicant respectfully submits the following reasons for requesting an Examiner interview. It is believed that the circumstance within the present case matches the validating circumstance for an Examiner interview as set forth in MPEP '713.01, i.e., "...the nature of the case is such that the interview could serve to develop and clarify specific issues and lead to a mutual understanding between the Examiner and the Applicant, and thereby advance the prosecution of the application," in that: it is believed that an interview would accelerate early agreement on the claims; it is believed that an interview would assist Applicant in judging the

extent of allowable subject matter in the application; and, it is believed that an interview would assist Applicant in judging the propriety and preferred mode of continued prosecution of the non-allowed claims and/or the entire application. The Examiner is respectfully requested to contact the attorney indicated on this paper at the local Washington, D.C. area telephone number of 703/312-6600 for the purpose of scheduling an examiner interview. The Examiner is thanked in advance for such considerations. Contact will also be attempted by the undersigned attorneys to schedule an Examiner Interview. In the event that the present papers, in and of themselves, are sufficient to place the application in condition for allowance, no Examiner interview would be necessary.

PENDING CLAIMS

Claims 1 and 19-24 were pending, under consideration and subjected to examination in the Office Action. At entry of this paper, Claims 1 and 19-24 remain pending for further consideration and examination in the application.

ALLOWED CLAIM(S)

Claims 1, 19 and 22-23 have been allowed in the application, as indicated within the "Allowable Subject Matter" section on page 5 of the Office Action. Applicant and the undersigned respectfully thank the Examiner for such indication of allowable subject matter.

REJECTION UNDER 35 USC '103

The 35 USC '103 rejection of claims 20, 21 and 24 as being unpatentable over Mochizuki (US 20010037305 A1) is respectfully traversed. All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated hereat by reference. Further, regarding any descriptions and rebuttal arguments concerning Applicant's invention and/or the applied prior art as included herein, yet found to be corrective over prior descriptions and rebuttal arguments, such corrective descriptions and rebuttal arguments should be considered to supersede prior descriptions and rebuttal arguments. Still further, all Office Action statements regarding the prior art rejections are respectfully traversed. As additional arguments, Applicant respectfully submits the following.

Comments associated with the Office Action rejection characterize limitations following Applicant's "adapted to" clause as statements of "intended use" or "field of use", which "do not serve to patentably distinguish the claimed structure over that of the reference." Such comments further cite the legal cases of: In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 152 USPQ 235; In re Otto, 136 USPQ 458; and, Ex parte Masham, 2 USPQ2d 1647. **Strong traversal is appropriate.**

More particularly, **none** of such legal cases is specifically focused on how "adapted to" claim limitations should specifically be interpreted. In fact, five (5) out of the cases **DO NOT EVEN HAVE "ADAPTED TO" LANGUAGE WITHIN THEIR DISPUTED CLAIMS**, i.e., it is respectfully submitted that such cases are

IRRELEVANT regarding interpretation of “ADAPTED TO” claim language.

While the In re Finsterwalder case does have “ADAPTED TO” language within its claims, the opinion in such legal case is **concerned with the interpretation of differing language** within the disputed claims, i.e., it is respectfully submitted that In re Finsterwalder is also **not particularly relevant to regarding interpretation of “ADAPTED TO” claim language.**

Instead, regarding the Office Action’s concerns regarding the **“adapted to”** language within Applicant’s claims, it is respectfully noted that **USPTO MPEP guidelines themselves validate use of “adapted to” claim language** (in contrast to the Examiner’s position). That is, **MPEP 2173.05(g)** describes the legal case of In re Venezia, 530 F.2d 956, 189 USPQ 149 (CCPA 1976), having the limitations of “a pair or sleeves ...each sleeve of said pair **adapted to** be fitted over the insulating jacket of one of said cables” [Emphasis added], wherein the court (CCPA) held that **such language “imparts a structural limitation** to the sleeve. Each sleeve is **so structured or dimensioned** that it can be fitted over the insulating jacket of a cable” [Emphasis added]. Accordingly, regarding Applicant’s claims, it is respectfully submitted that use of “adapted to” language is proper, and Applicant’s claimed component(s) having “adapted to” language should be interpreted as being “so structured or dimensioned” (i.e., constructed or configured) to provide the further recited limitations (e.g., operations).

In any event, if changing claim language from “adapted to” to --configured to-- (or some other phrase suggested by the Examiner) would remove this disputed issue so as to move this application to allowance, the Examiner is invited to call the

undersigned at the local Washington, D.C. telephone number of 703-312-6600 for discussions and/or authorization to effect such changes by examiner's amendment.

Regarding substance of the rejection, it is respectfully submitted that claims 20, 21 and 24 are allowable over the prior art for the same reasons that claims 1, 19 and 22-23 have been allowed.

As a result of all of the foregoing, it is respectfully submitted that the applied art (taken alone and in the Office Action combinations) would not support a '103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such '103 rejection, and express written allowance of all of the '103 rejected claims, are respectfully requested.

EXAMINER INVITED TO TELEPHONE

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

RESERVATION OF RIGHTS

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter.

Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 566.46566X00) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

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